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OFFICE OF THE
EXECUTIVE SECRETARY

April 26, 2002

VIA HAND DELIVERY

Mr. David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355 and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-00123*
Docket No. 00-00544

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Motion to Strike that Portion of Dieca Communications, Inc. d/b/a Covad Communication Company's Opposition to BellSouth Telecommunications, Inc.'s Petition for Stay, Which Constitutes a Second and Untimely Motion for Reconsideration. Copies of the enclosed are being provided to counsel of record.

Cordially,

Joelle Phillips

JP/jej

Enclosure

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Generic Docket to Establish UNE Prices for Line Sharing per FCC 99-355
and Riser Cable and Terminating Wire as Ordered in TRA Docket No. 98-
00123*

Docket No. 00-00544

BELLSOUTH'S MOTION TO STRIKE THAT PORTION OF
DIECA COMMUNICATIONS, INC. d/b/a
COVAD COMMUNICATION COMPANY'S OPPOSITION TO
BELLSOUTH TELECOMMUNICATIONS, INC.'S
PETITION FOR STAY, WHICH CONSTITUTES A SECOND
AND UNTIMELY MOTION FOR RECONSIDERATION

BellSouth Telecommunications, Inc. ("BellSouth") hereby moves the Tennessee Regulatory Authority ("the Authority") for an order striking certain portions of the brief filed by DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") in opposition to BellSouth's petition for a stay. In particular, to the extent that Covad has asked the Authority to reconsider or modify its April 3, 2002 First Initial Order ("April 3 Order"), Covad's request is untimely and should not be considered.

1. BellSouth timely filed a petition seeking a partial stay of the April 3 Order on April 10, 2002 ("BellSouth's Stay Petition").

2. On April 18, 2002, Covad filed a Motion for Continuance, seeking additional time to file a response to BellSouth's Stay Petition. Specifically, Covad sought leave to file a response to BellSouth's Stay Petition on April 24, 2002.¹ That request was granted by the Hearing Officer's April 26, 2002 Order.

¹ Covad's Motion for Continuance stated that Covad "requests that the Hearing

3. Independent of the Stay Petition, BellSouth and Covad each timely filed requests for reconsideration and clarification of the April 3 Order on April 18, 2002. These pleadings were submitted within fifteen (15) days of the issuance of the April 3 Order as required by T.C.A. § 4-5-317(a).

4. On April 24, 2002, Covad filed a response to BellSouth's Stay Petition. In its pleading, Covad argued that BellSouth had not met its burden of obtaining a stay and requested that the Authority deny BellSouth's Stay Petition. BellSouth will file a reply to the portion of Covad's opposition that addresses BellSouth's request for stay by May 1, 2002, pursuant to the Hearing Officer's April 26 Order. In addition to expressing opposition to the stay, Covad went on to request that the Authority modify its April 3 Order to require BellSouth to provide competitive local exchange carriers ("CLECs") with access to BellSouth's remote DSLAMs on a UNE basis. See Covad's Opposition at pp. 5-7.

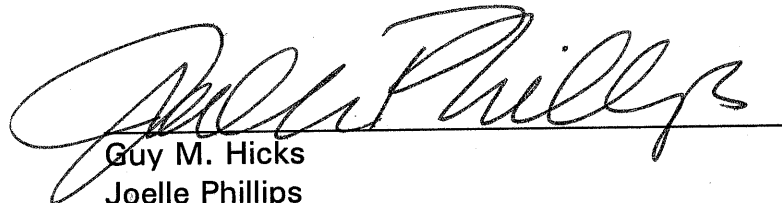
5. Covad's request for modification of the April 3, 2002 Order should be stricken as an untimely request for reconsideration. The express provisions of T.C.A. § 4-5-317(a) require a party to file any request for reconsideration within fifteen (15) days of the Authority's Order. Indeed, Covad filed such a timely request with respect to the non-recurring cost of Element J.4.3. If Covad desired reconsideration or clarification of other matters, those matters were required to be raised with the

Officer grant Covad an additional two (2) days to respond to the Motion for Stay filed on April 10, 2002." (emphasis added). Covad's Motion made no reference to seeking additional time for the purpose of requesting reconsideration of the April 3 Order, and, as discussed below, the Authority lacks discretion to enlarge the time established by

Authority on or before April 18, 2002. Covad cannot circumvent the requirements of T.C.A. § 4-5-317(a) by including its untimely request in another pleading. Moreover, the Authority lacks discretion to expand the time within which a party may seek reconsideration because such time is established by statute. TRA Rule 1220-1-1.11 provides that the time may not be extended for taking any action when that time is fixed by statute. Therefore, Covad's request for modification of the April 3 Order should be summarily rejected.

6. Furthermore, BellSouth has had no opportunity to respond to Covad's request for reconsideration, which sets forth new demands and arguments. If the Authority intends to act on those new demands and arguments, then BellSouth has a procedural due process right to be heard on those new issues.

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in cursive script, appearing to read "Joelle Phillips", written over a horizontal line.

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statute to seek reconsideration in any event.

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2002, a copy of the foregoing document was served on the parties of record, via the method indicated:

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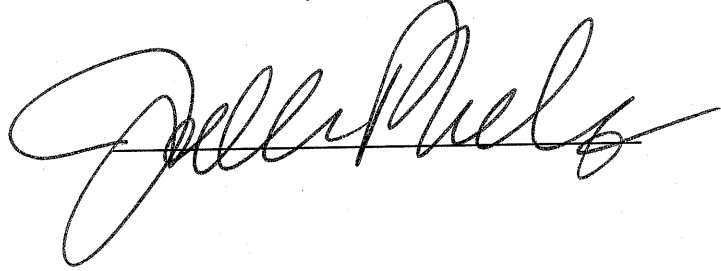
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A large, stylized handwritten signature in black ink, likely belonging to William H. Weber, is written over a horizontal line.